

Senate File 323 - Introduced

SENATE FILE 323

BY McCOY

A BILL FOR

1 An Act relating to the criminal or attempted criminal
2 transmission of the human immunodeficiency virus, and
3 providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 692A.101, subsection 1, paragraph
2 a, subparagraph (9), Code 2011, is amended by striking the
3 subparagraph.

4 Sec. 2. Section 692A.102, subsection 1, paragraph c,
5 subparagraph (23), Code 2011, is amended by striking the
6 subparagraph.

7 Sec. 3. Section 709C.1, Code 2011, is amended to read as
8 follows:

9 **709C.1 Criminal or attempted criminal transmission of human**
10 **immunodeficiency virus.**

11 1. A person commits criminal or attempted criminal
12 transmission of the human immunodeficiency virus if the person,
13 knowing that the person's human immunodeficiency virus status
14 is positive, does any of the following:

15 a. Engages in unprotected intimate contact with another
16 person.

17 b. Transfers, donates, or provides the person's blood,
18 tissue, semen, organs, or other potentially infectious bodily
19 fluids for transfusion, transplantation, insemination, or other
20 administration to another person.

21 c. Dispenses, delivers, exchanges, sells, or in any other
22 way transfers to another person any nonsterile intravenous or
23 intramuscular drug paraphernalia previously used by the person
24 infected with the human immunodeficiency virus.

25 2. For the purposes of this section:

26 a. "Another person" means a person who does not know the
27 infected person's human immunodeficiency virus status is
28 positive at the time of the exposure, does not know the action
29 of exposure could result in the transmission of the human
30 immunodeficiency virus, or, with the knowledge the infected
31 person has a positive human immunodeficiency virus status, does
32 not consent to the action of exposure.

33 ~~a.~~ b. "Human immunodeficiency virus" means the human
34 immunodeficiency virus identified as the causative agent of
35 acquired immune deficiency syndrome.

1 ~~b.~~ c. "Intimate contact" means the intentional exposure
2 of the body of one person to a bodily fluid of another person
3 in a manner that could result in the transmission of the human
4 immunodeficiency virus.

5 ~~e.~~ d. "Intravenous or intramuscular drug paraphernalia"
6 means any equipment, product, or material of any kind which is
7 peculiar to and marketed for use in injecting a substance into
8 or withdrawing a bodily fluid from the human body.

9 e. "Unprotected intimate contact" means intimate contact
10 that does not involve the use of a condom or similar device.

11 3. a. Criminal transmission of the human immunodeficiency
12 virus is a class "B" felony if an infection with the human
13 immunodeficiency virus occurred.

14 b. Attempted criminal transmission of the human
15 immunodeficiency virus is an aggravated misdemeanor if no
16 infection with the human immunodeficiency virus occurred.

17 ~~4.~~ ~~This section shall not be construed to require that an~~
18 ~~infection with the human immunodeficiency virus has occurred~~
19 ~~for a person to have committed criminal transmission of the~~
20 ~~human immunodeficiency virus.~~

21 ~~5.~~ ~~It is an affirmative defense that the person exposed to~~
22 ~~the human immunodeficiency virus knew that the infected person~~
23 ~~had a positive human immunodeficiency virus status at the time~~
24 ~~of the action of exposure, knew that the action of exposure~~
25 ~~could result in transmission of the human immunodeficiency~~
26 ~~virus, and consented to the action of exposure with that~~
27 ~~knowledge.~~

28 EXPLANATION

29 This bill relates to criminal transmission of the human
30 immunodeficiency virus.

31 The bill provides that a person commits criminal
32 transmission of the human immunodeficiency virus if the
33 person has unprotected intimate contact with another person
34 who does not have knowledge of the person's positive human
35 immunodeficiency virus status, does not know the action of

1 exposure could result in the transmission of the virus, or,
2 with the knowledge the infected person has a positive human
3 immunodeficiency virus status, does not consent to the action
4 of exposure. The bill defines "unprotected intimate contact"
5 to mean intimate contact that does not involve the use of a
6 condom or similar device. Current law does not specify whether
7 the intimate contact be protected contact or unprotected
8 contact, only that the intimate contact lead to the intentional
9 exposure of the body of one person to a bodily fluid of another
10 person in a manner that could result in the transmission of the
11 human immunodeficiency virus.

12 The bill provides a different criminal penalty for criminal
13 transmission of the human immunodeficiency virus and for
14 attempted criminal transmission of the human immunodeficiency
15 virus. Under the bill, the criminal penalty for criminal
16 transmission of the human immunodeficiency virus remains a
17 class "B" felony if a human immunodeficiency virus infection
18 occurred. If no human immunodeficiency virus infection occurs,
19 the offense is classified as attempted criminal transmission
20 of the human immunodeficiency virus, and this offense is
21 classified as an aggravated misdemeanor.

22 The bill strikes a provision providing an affirmative
23 defense to the crime of criminal transmission of the human
24 immunodeficiency virus when the alleged victim knew of the
25 defendant's positive human immunodeficiency virus status, knew
26 the action of exposure could result in the transmission of
27 the virus, and consented to the action of exposure with that
28 knowledge.

29 The bill strikes the requirement that a person convicted
30 of criminal transmission of the human immunodeficiency virus
31 be required to register as a sex offender and also does not
32 require a person convicted of attempted criminal transmission
33 of the human immunodeficiency virus to register as a sex
34 offender.

35 A class "B" felony is punishable by confinement for no more

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1 than 25 years.

2 An aggravated misdemeanor is punishable by confinement for
3 no more than two years and a fine of at least \$625 but not more
4 than \$6,250.